

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA, ) 4:07CR3149  
                              )  
                               )  
Plaintiff,                 )  
                               )  
vs.                         ) **MEMORANDUM**  
                               )  
                               ) **AND ORDER**  
CAROLYN M. BAASCH,         )  
                               )  
Defendant.                 )

Today I took evidence and ruled upon the government's objection to the presentence report and the government's motion to upwardly depart. Confirming my oral ruling,

IT IS ORDERED that:

- (1) The government's objection to the presentence report regarding criminal history ([filing 51](#), paragraph 1) is denied. The court finds that the government failed to prove that the defendant trafficked controlled substances while on supervised release.
- (2) The government's motion to upwardly depart because of under representation of criminal history ([filing 51](#), paragraph 3) is denied to the extent that the government contends that an upward departure is warranted because the defendant used or dealt drugs while on supervised release.
- (3) The government's motion to upwardly depart because the earlier federal felony conviction for drugs garnered only one criminal history point and therefore substantially under represents the defendant's criminal history ([filing 51](#), paragraph 3) is granted. The court will assess one additional criminal history point.

(4) Based upon the government's concession that the foregoing ruling does not disqualify the defendant from the safety-valve, it is so ordered. Accordingly, if the defendant wishes to qualify for the safety-valve, she is instructed to arrange a safety-valve interview with the government.

August 22, 2008.

BY THE COURT:

*s/ Richard G. Kopf*  
United States District Judge